

# FREQUENTLY ASKED QUESTIONS

Updated  
March 13, 2014

## Cabin Site and Home Site Sales

*Responses are based on Administrative Rules of Montana (ARM) 36.25.701-708*



### **Basics**

**1. Why is the DNRC selling Cabin and Home Sites?**

*During the 2013 Regular Legislative Session, Senate Bill 369 (SB369) was passed. SB369 was a bill regarding the availability for sale, and the sale process for trust lands designated as cabin sites or home sites. The bill allows for the sale of a cabin site and home site at the request of the lessee (or owner of improvements upon a cancelled lease), if the sale is approved by the Land Board and is consistent with the Board's fiduciary duty of attaining full market value.*

**2. Will my leased lease lot be sold out from under me?**

*No. The Land Banking Sale process is a voluntary program. You will not be required to purchase your cabin or home site for sale if you wish to continue leasing.*

**3. How many lease lots will be sold per year?**

*DNRC will begin a pilot cabin site sale program in January 2014. Because of lack of department funding, we only have the ability to move 5 sales through the sale process for 2014. This number will be re-evaluated in subsequent years depending on funding.*

**4. How long does the sale process take?**

*The estimated timeline for a cabin or home site sale from selecting which sales will move forward, up to the time of closing will take approximately 10-12 months.*

**5. Why does the sales process take so long?**

*There are many steps that are statutorily required for a sale of state trust land. Please see item #19 of these FAQs for a summary of the steps and their approximated time frame. Also, please see the Cabin Site Sale Processing Timeline for 2014 Pilot found online here: [http://dnrc.mt.gov/CabinSite/Documents/Timeline for Cabin site sale processing 2014\(2\).pdf](http://dnrc.mt.gov/CabinSite/Documents/Timeline%20for%20Cabin%20site%20sale%20processing%202014(2).pdf)*

**6. Why does the land have to be a public auction?**

*The sale of all state lands must be sold by public auction as required by state statute and the Enabling Act of 1889. <http://courts.mt.gov/content/library/docs/enablingact.pdf>*

## **Getting Started**

**7. How do I request that my lease lot be considered for sale?**

*DNRC will send a letter in the fall of each year to all current lessees and improvements owners explaining the sale process. At that time, lessees and improvements owners may respond to indicate that they are interested in participating in the cabin and home site sale program. DNRC will begin to screen for preliminary criteria based on respondents. If the lot meets the preliminary criteria, it will be placed in a pool of qualified lots from which a predetermined number of sales will be chosen.*

**8. What are the preliminary sale criteria?**

*The department may consider the following factors in the preliminary review:*

- Whether sale is consistent with the board's constitutional fiduciary duty;*
- whether the improvements possess clear title and whether any mortgage holder consents to sale;*
- whether there are any outstanding lease violations on the parcel;*
- whether, and to what degree the sale of the parcel would affect access to other public lands;*
- the extent of infrastructure, such as roads, utilities, power, telephone, water, or sewer availability;*
- whether the land has been surveyed by a licensed surveyor and title can be conveyed using that survey.*

**9. What if my lease lot does not meet the preliminary sale criteria?**

*You would work with DNRC staff to address the issues.*

**10. How do I find out if my lease lot has been surveyed? What if it has not been surveyed?**

*You may contact a DNRC office in your area to see if your lease lot has a current survey useable to convey title. The lot will **not** be saleable until it has been properly surveyed. DNRC will work to complete surveys as funding is available.*

**11. Can I pay for a survey of my lease lot at my own expense if the lot has not been surveyed yet?**

*No. Any survey would have to be contracted through the DNRC as the land owner. For the sake of efficiency, consistency, and accuracy of surveys, it is not in the best interest of the trust to contract for individual surveys, specifically for lots that are located within a greater neighborhood that remains to be surveyed.*

**12. Do I have to be a current lessee to nominate a lease lot for sale?**

*Lease lots can be nominated for sale by the current lessee, improvements owner, DNRC or the Land Board. During the 2014 pilot program period, lots that are currently under lease will be prioritized over abandoned or cancelled lease lots.*

**13. How will DNRC prioritize lease lots to be sold?**

*All lease lots that have returned responses indicating that they would like to be included in the lots to be considered for sale will first be screened through the preliminary sales criteria listed in #10. DNRC will then select a predetermined number of lots that meet the preliminary criteria. The selection process may be random, or lots may be selected strategically with consideration to the best interest of the trust, market conditions, and the direction of the Land Board.*

**14. What if my lease lot is not selected for the current sale year?**

*You may request that your lot be considered in the next sales year, or you can continue leasing. DNRC will send out a letter in the fall prior to each sale year requesting responses from lessees and improvements owners interested in purchasing their lease lot.*

**15. What if my lease lot is denied for sale entirely?**

*You may appeal the denial to the Land Board, or choose to continue leasing, or work with the DNRC to correct any issues if possible.*

**16. What happens after my lease lot is selected for sale?**

*DNRC will contact you to inform you that your lease site has been selected for sale. You will then meet with local DNRC staff to complete the necessary forms to officially nominate the lease site for sale and to go over the details of the sale process. Please see the bullets below for more information on the steps, and also refer to the Cabin Site Sale Processing Timeline for 2014 Pilot.*

[http://dnrc.mt.gov/CabinSite/Documents/Timeline\\_for\\_Cabin\\_site\\_sale\\_processing\\_2014\(2\).pdf](http://dnrc.mt.gov/CabinSite/Documents/Timeline_for_Cabin_site_sale_processing_2014(2).pdf)

**Summary of Steps for the 2014 Pilot:**

- *DNRC solicits responses from lessees and improvement owners in the fall for those interested in purchasing their lease lots.*
- *Lessees and improvements owners will be asked to respond by December 31 of that year requesting that their lease lot will be considered in the sale selection.*
- *DNRC staff conducts preliminary screening for all respondents: approximately 1 month*
- *DNRC staff selects the lease lots that meet the preliminary sale criteria to be included in a drawing of lots to move through the process.*
- *Selected lessees make an appointment to meet with local DNRC staff to sign Nomination Form, Procedure Disclosure Form and go over the sales process : approximately 2 weeks.*
- *Selected lessees choose from a list of MT General Certified Appraisers to be sent a bid request for the appraisal of the land and improvements: approximately 1 week*

- DNRC sends a bid request to lessee selected appraisers to complete the appraisal assignments: approximately 2 weeks
- DNRC presents the potential sale to the Land Board for Preliminary Approval to sell the lease lot: approximately 0-4 weeks (Land Board only meets once a month)
- DNRC requests funds from the lessee for the estimated processing costs necessary to move forward with the sale. The lessee submits estimated processing costs: approximately 2 weeks
- DNRC contracts the appraisal for the land and improvements. Appraisal work is completed: approximately 6 weeks
- DNRC communicates the appraised values of the land and improvements to the lessee. If the lessee disputes the appraised values of the land and improvements, they have the opportunity for an informal administrative hearing before DNRC
- DNRC holds the informal administrative hearing (if applicable): approximately 2 weeks
- DNRC presents appraisal, evidences presented at the hearing, and recommended values of the land and improvements to the Land Board: approximately 0-4 weeks (Land Board only meets once a month)
- The Land Board sets the Minimum Bid on the land and the maximum value of the improvements.
- DNRC will set up an auction date, time and location. Public notification, marketing and open houses must be held to show the property to any/all prospective bidders: approximately 3 months.
- Land Board Final Approval of the sale: approximately 0-4 weeks (Land Board only meets once a month)
- Closing of improvements and land: approximately 1-2 months.

## **Risks/Cost**

### **17. Can someone outbid me if I own improvements on the lease site?**

Yes, but if you are the current lessee you have the preference right to match the high bid in accordance with 77-2-324, MCA. If you are only the improvements owner, and not a current lessee, you **do not** have the same right to match the high bid; you must bid higher.

### **18. What happens to my improvements if someone outbids me?**

You must sell the improvements to the winning bidder, and the winning bidder must purchase the improvements from you for no more than the appraised value determined by the appraiser and set by the Land Board prior to the public auction. The conditions of the sale and purchase of the improvements are understood and contractually agreed upon by all parties prior to going to auction, or the auction will not be held.

### **19. What are the costs involved?**

*The lessee or improvements owner is responsible for Processing Costs associated with preparing the lease site for sale. These costs are non-refundable and must be paid prior to the auction. They include but are not limited to:*

- *A one-time non-refundable \$100 nomination fee that must be paid for each cabin site or home site nominated for sale;*
- *Cost of the appraisal attributable to the improvements;*
- *Legal advertisement of sale;*
- *Environmental review (if required);*
- *Document recording fees; and*
- *Water rights transfers*

## **During the Process**

### **20. How is the sale price determined for the lease lot?**

*A Montana Certified General appraiser will appraise both the lease lot and all improvements under consideration for sale. The lessee and/or the improvements owner can then request a hearing to present evidence to support a different value if they disagree with the appraisal (see #24). The department then takes the appraiser's determination of values and the results of the hearing (if applicable) to the Land Board to set the minimum bid for the sale of the land.*

### **21. How is the sale price determined for my improvements?**

*A Montana Certified General Appraiser will appraise both the lease lot and all of the improvements under consideration for sale. The appraisal will include separate values for the land and the improvements.*

### **22. What if I don't want to sell my improvements?**

*The owner of any improvements located on the lease site must agree to sell the improvements to the highest bidder on the land, or the nomination for sale will not be accepted. If you are the current lessee, you have a preference right to match the highest bid at the auction. The current lessee also has the right to withdraw the lease lot from sale up to 10 days before auction.*

### **23. Who does the appraisal?**

*DNRC will contract with a Montana Certified General appraiser to appraise both the lease site and all improvements under consideration for sale. The appraisal must comply with Uniform Standards of Professional Appraisal Practices (USPAP) as adopted by the state Board of Real Estate Appraisers in ARM 24.207.402. DNRC will review or contract the review of the appraisals conducted by the contract appraiser.*

**24. What if I don't agree with the appraised values?**

*If the lessee or improvement owner does not agree with the value of the land or the improvements, they may request an informal administrative hearing before the department to contest those valuations. DNRC shall review the arguments and evidence received at the hearing and will make a recommendation of the values to the Land Board. Any request for an informal hearing must be received by DNRC within 10 days of the department's notification to the lessee or improvement owner of the appraised values. A current lessee may also choose to withdraw the lease lot from the sale process and continue to lease.*

**25. Do I still need to pay my lease fee while my lease is going through the sale process?**

*Yes. All lease fees must be paid as the sale goes through the sale process.*

**26. What if my lease expires before my lease lot is selected for sale?**

*In order to maintain a preference right to match high bid, the lease must be in good standing. For the 2014 pilot sale program, leased lots will be prioritized over cancelled or abandoned lots. In order to maintain the preference right, and the priority status, the lease would have to be renewed upon expiration.*

**27. Can I withdraw my lease lot from sale?**

*Yes, if you are the current lessee. In order to withdraw the lease lot from the sale process, the current lessee must send written notice to DNRC by certified mail, postmarked no later than 10 days before the date of the auction.*

**28. Will I know if there are any other people interested in bidding on my lease lot?**

*Each bidder wishing to participate in the auction as a qualified bidder must execute an Offer to Purchase and Bid Deposit Receipt along with a bid deposit equal to 5% of the minimum bid amount for the land, no later than 20 days before the date of the auction. You may contact the DNRC after the date that the bids are due and inquire whether or not there are any qualified bidders on the sale.*

**29. What do I have to do to bid at the auction?**

*In order to participate in the auction, you must be a qualified bidder. A qualified bidder must submit a Cabin/Home Site Offer to Purchase and Bid Deposit Receipt, along with a 5% bid deposit no later than 20 days before the date of the auction.*

**30. Where will the auctions take place?**

*Auctions must take place in the county seat for the county where the lease lot is located. Typically this is at the county courthouse or in some instances, the local DNRC office, if one is located in the county seat.*

**31. Do I have to be present at the auction if I want to bid?**

*Yes. All bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction.*



**32. What is the process for bidding on auction day?**

*DNRC staff will hold a public oral auction for the sale of the land. All qualified bidders wishing to participate in the auction must appear in person or be represented by a legal representative at the auction to present an oral bid. All bidding will be for the land only. Only qualified bidders will be allowed to bid. The minimum bid amount will be set by the Land Board based on the appraised value of the land. Bids for less than the minimum amount will not be accepted. If there are multiple qualified bidders, the bidding will continue until no one wishes to offer a higher bid. If one of the qualified bidders is a current lessee, they will be allowed to match the highest bid until such time that there is no longer a higher bid, or the current lessee does not wish to match the highest bid. The land will be sold to the highest bidder who consummates the terms of the sale. All qualified bidders and the improvements owner will have signed Agreementst to Sell/Purchase Improvements prior to the auction. In situations where the purchaser is purchasing both the land and improvement, closing of the land and improvements will occur simultaneously.*

## **Closing**

**33. What happens after the auction?**

*The sale of the land must be taken to the Land Board for Final Approval. Upon approval, the state will prepare closing documents, including settlement statements and drafting of deeds. The sale of the improvements is conducted separately between the seller and the purchaser. In situations where the purchaser is purchasing both the land and improvement, closing will occur simultaneously.*

**34. How is title to the land transferred?**

*The state conveys title to the land by Patent, Grant Deed or Quitclaim Deed. The state does not warrant title, but you have the option to purchase title insurance at your own expense. Transfer of the improvements happens between the seller and the purchaser.*

**35. How long will the winning bidder have to close on the sale of land and improvements?**

*The department will allow 60 days from the sale's Final Approval from the Land Board for closing. An extension of time may be granted on a case by case basis for good cause.*

**36. How will closing occur?**

*Closings will occur through a title company or by mail, as determined on a case by case basis. In situations where the purchaser is purchasing both the land and improvement, closing will occur simultaneously.*

**37. What are my financing options?**

*Sales of state land are on a cash only basis. Purchasers will need to seek financing from a lending agency if necessary.*